

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, AUGUST 18, 2010**

C-1 Call to Order / Roll Call

The City Council Closed Session meeting of August 18, 2010, was called to order by Mayor Katzakian at 6:45 p.m.

Present: Council Member Hansen, Council Member Mounce, Mayor Pro Tempore Hitchcock, and Mayor Katzakian

Absent: Council Member Johnson

Also Present: Interim City Manager Bartlam, City Attorney Schwabauer, and City Clerk Johl

C-2 Announcement of Closed Session

- a) Threatened Litigation: Government Code §54956.9(b); One Case; Potential Suit by Julie McDonnell against City of Lodi Based on Personal Injury

C-3 Adjourn to Closed Session

At 6:45 p.m., Mayor Katzakian adjourned the meeting to a Closed Session to discuss the above matter. The Closed Session adjourned at 7:00 p.m.

C-4 Return to Open Session / Disclosure of Action

At 7:09 p.m., Mayor Katzakian reconvened the City Council meeting, and City Attorney Schwabauer disclosed the following action.

In regard to Item C-2 (a), negotiating direction was given. There was no reportable action.

A. Call to Order / Roll call

The Regular City Council meeting of August 18, 2010, was called to order by Mayor Katzakian at 7:09 p.m.

Present: Council Member Hansen, Council Member Mounce, Mayor Pro Tempore Hitchcock, and Mayor Katzakian

Absent: Council Member Johnson

Also Present: Interim City Manager Bartlam, City Attorney Schwabauer, and City Clerk Johl

B. Pledge of Allegiance

C. Presentations

- C-1 Presentation of Government Finance Officers Association Certificate of Achievement for Excellence in Financial Reporting (CM)

Mayor Katzakian presented the Government Finance Officers Association Certificate of Achievement for Excellence in Financial Reporting to Deputy City Manager Jordan Ayers.

- C-2 Presentation by Tree Lodi on the Status of the 2006 Centennial Cork Oak Trees (PR)

Steve Dutra, representing Tree Lodi, gave a presentation on the status of the 2006 Centennial cork oak trees.

D. Consent Calendar (Reading; Comments by the Public; Council Action)

Council Member Hansen made a motion, second by Mayor Pro Tempore Hitchcock, to approve the following items hereinafter set forth, **except those otherwise noted**, in accordance with the report and recommendation of the City Manager.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hansen, Council Member Mounce, Mayor Pro Tempore Hitchcock, and Mayor Katzakian

Noes: None

Absent: Council Member Johnson

D-1 Receive Register of Claims in the Amount of \$6,003,206.64 (FIN)

Claims were approved in the amount of \$6,003,206.64.

D-2 Approve Minutes (CLK)

The minutes of August 3, 2010 (Shirtsleeve Session) and August 10, 2010 (Shirtsleeve Session) were approved as written.

D-3 Accept the Quarterly Investment Report as Required by Government Code Section 53646 and the City of Lodi Investment Policy (CM)

Accepted the quarterly investment report as required by Government Code Section 53646 and the City of Lodi Investment Policy.

D-4 Accept Quarterly Report of Purchases Between \$5,000 and \$20,000 (CM)

Accepted the quarterly report of purchases between \$5,000 and \$20,000.

D-5 Approve Plans and Specifications and Authorize Advertisement for Bids for Carnegie Forum Re-Roof Project (PW)

Approved the plans and specifications and authorized advertisement for bids for Carnegie Forum Re-Roof Project.

D-6 Approve Plans and Specifications and Authorize Advertisement for Bids for Fire Station No. 2 Re-Roof Project (PW)

This item was pulled from the agenda by Interim City Manager Rad Bartlam and will be brought back to the City Council for discussion at a future date.

D-7 Approve Plans and Specifications and Authorize Advertisement for Bids for State Route 99/Harney Lane Interim Improvement Project (PW)

Approved the plans and specifications and authorized advertisement for bids for State Route 99/Harney Lane Interim Improvement Project.

D-8 Adopt Resolution Approving Standardization of Traffic Signal Controllers/Cabinets and

Awarding Purchase of Controllers/Cabinets to Econolite Control Products, Inc., of Anaheim (\$31,000) (PW)

Adopted Resolution No. 2010-141 approving standardization of traffic signal controllers/cabinets and awarding the purchase of controllers/cabinets to Econolite Control Products, Inc., of Anaheim, in the amount of \$31,000.

D-9 Adopt Resolution Authorizing Change Order with F & H Construction, Inc., of Stockton, for Emergency Repairs at Lodi Station Parking Structure and Appropriating Funds (\$21,043.27) (PW)

Adopted Resolution No. 2010-142 authorizing change order with F & H Construction, Inc., of Stockton, for emergency repairs at Lodi Station Parking Structure and appropriating funds in the amount of \$21,043.27.

D-10 Adopt Resolution Authorizing the City Manager to Execute Contract Change Order with D. A. Wood Construction, Inc., of Empire, for Additional Asphalt Paving Removal and Replacement for Water Main Replacement Project No. 3 and Appropriating Funds (\$150,000) (PW)

This item was pulled for further discussion by Mayor Pro Tempore Hitchcock.

In response to Mayor Pro Tempore Hitchcock, Public Works Director Wally Sandelin stated that when the project was designed staff was hopeful that only a four-foot area would need to be paved but discovered it would be better to address the additional cracks in the pavement while the street was being worked on.

Mayor Pro Tempore Hitchcock made a motion, second by Council Member Mounce, to adopt Resolution No. 2010-146 authorizing the City Manager to execute contract change order with D. A. Wood Construction, Inc., of Empire, for additional asphalt paving removal and replacement for Water Main Replacement Project No. 3 and appropriating funds in the amount of \$150,000.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hansen, Council Member Mounce, Mayor Pro Tempore Hitchcock, and Mayor Katzakian

Noes: None

Absent: Council Member Johnson

D-11 Accept Improvements Under Contract for Hale Park, 209 East Locust Street, and Blakely Park, 1050 South Stockton Street, Playground Surfacing Improvements (PW)

Accepted the improvements under contract for Hale Park, 209 East Locust Street, and Blakely Park, 1050 South Stockton Street, Playground Surfacing Improvements.

D-12 Adopt Resolution Approving Improvement Agreements for Public Improvements for Reynolds Ranch, Phase II, Offsite and Onsite Improvements and Approving No-Parking Zones on All of Reynolds Ranch Parkway and Harney Lane from Stockton Street to Reynolds Ranch Parkway (PW)

Adopted Resolution No. 2010-143 approving Improvement Agreements for Public Improvements for Reynolds Ranch, Phase II, Offsite and Onsite Improvements and approving no-parking zones on all of Reynolds Ranch Parkway and Harney Lane from Stockton Street to Reynolds Ranch Parkway.

D-13 Adopt Resolution Approving Amendments to the San Joaquin Council of Governments Joint Powers Agreement (CM)

This item was pulled for further discussion by Mayor Pro Tempore Hitchcock.

In response to Mayor Pro Tempore Hitchcock, Interim City Manager Bartlam stated that San Joaquin Council of Governments (SJCOG) and County are going through a separation of sorts and the amendment authorizes SJCOG to use an independent third party auditor instead of the County auditor.

Mayor Pro Tempore Hitchcock made a motion, second by Council Member Hansen, to adopt Resolution No. 2010-147 approving amendments to the San Joaquin Council of Governments Joint Powers Agreement.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hansen, Council Member Mounce, Mayor Pro Tempore Hitchcock, and Mayor Katakian

Noes: None

Absent: Council Member Johnson

D-14 Adopt Resolution Authorizing the City Manager to Submit a Joint Application with Eden Housing, Inc. to the State of California Department of Housing and Community Development for HOME Investment Partnerships Program Funding; and if Selected, the Execution of a Standard Agreement, any Amendments Thereto, and any Related Documents Necessary to Participate in the HOME Investment Partnerships Program (CD)

Adopted Resolution No. 2010-144 authorizing the City Manager to submit a joint application with Eden Housing, Inc. to the State of California Department of Housing and Community Development for HOME Investment Partnerships Program funding; and if selected, the execution of a Standard Agreement, any amendments thereto, and any related documents necessary to participate in the HOME Investment Partnerships Program.

D-15 Adopt Resolution Acknowledging Lodi Nut Company's Permitted Industrial Use at 1206, 1218, and 1230 South Fairmont Avenue (CM)

Adopted Resolution No. 2010-145 acknowledging Lodi Nut Company's permitted industrial use at 1206, 1218, and 1230 South Fairmont Avenue.

D-16 Adopt Resolution Approving Participation with the San Joaquin Valley Partner Cities in the Smart Valley Places Compact (CD)

This item was pulled for further discussion by Mayor Pro Tempore Hitchcock.

In response to Mayor Pro Tempore Hitchcock, Interim City Manager Bartlam stated the item has not yet gone to the Planning Commission because the City Council must first decide whether or not it wishes to participate in the program. Mr. Bartlam stated the program consists of a compact of the largest cities in the Central Valley with populations over 50,000 submitting a Department of Housing and Urban Development grant for sustainable communities as a consolidated body.

Neighborhood Services Manager Joseph Wood provided a brief PowerPoint presentation regarding the Smart Valley Places Compact. Specific topics of discussion included California Partnership for San Joaquin Valley, 2005 Executive Order, participants, sustainable growth,

funding opportunities, livability principles, application, and potential award.

In response to Mayor Pro Tempore Hitchcock, Mr. Bartlam stated the primary downside to participating in the compact is the amount of staff that can be dedicated to the program. Mr. Bartlam stated other cities had similar concerns and he is not sure why the City of Tracy is not participating in the program.

In response to Mayor Pro Tempore Hitchcock, Mr. Bartlam stated if the group is successful the City will receive money for projects it intends to do regardless such as the Development Code preparation and implementation of the General Plan.

In response to Mayor Katzakian, Mr. Bartlam stated the City would not be competing against other cities from the area by participating in the group program.

In response to Council Member Mounce, Mr. Bartlam stated the process is different from the Community Development Block Grant process because the City is not subservient to another entity but a partner in a broader group. He stated to date there are no administration fees.

Mayor Pro Tempore Hitchcock made a motion, second by Council Member Hansen, to adopt Resolution No. 2010-148 approving participation with the San Joaquin Valley Partner Cities in the Smart Valley Places Compact.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hansen, Council Member Mounce, Mayor Pro Tempore Hitchcock, and Mayor Katzakian

Noes: None

Absent: Council Member Johnson

D-17 Authorize the Mayor, on Behalf of the City Council, to Send a Letter of Opposition to AB 602 (Feuer), Land Use - Cause of Actions and Time Limitations (CM)

Authorized the Mayor, on behalf of the City Council, to send a letter of opposition to AB 602 (Feuer), Land Use - Cause of Actions and Time Limitations.

D-18 Set Public Hearing for October 6, 2010, to Receive Comments On and Consider Accepting the City of Lodi's Report on Water Quality Relative to Public Health Goals (PW)

Set public hearing for October 6, 2010, to receive comments on and consider accepting the City of Lodi's Report on Water Quality Relative to Public Health Goals.

E. Comments by the Public on Non-Agenda Items

THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES. The City Council cannot deliberate or take any action on a non-agenda item unless there is factual evidence presented to the City Council indicating that the subject brought up by the public does fall into one of the exceptions under Government Code Section 54954.2 in that (a) there is an emergency situation, or (b) the need to take action on the item arose subsequent to the agenda's being posted. Unless the City Council is presented with this factual evidence, the City Council will refer the matter for review and placement on a future City Council agenda.

Nancy Swindell, representing AFSCME, spoke in regard to the desire of the group to obtain a 9/80 work schedule and the benefits associated with the same.

Robin Rushing spoke in regard to his concerns about transportation and Dial-A-Ride and the need to have Sunday service.

Kelly Suess spoke in support of the approval of the permitted use for Lodi Nut Company and thanked the staff for its efforts regarding the same.

F. Comments by the City Council Members on Non-Agenda Items

Council Member Hansen spoke in regard to his attendance at the San Joaquin Council of Governments' meeting, the ongoing construction with \$70 million, the approval of the permitted use for Lodi Nut Company, and the status of an additional cab company in the City.

Mayor Pro Tempore Hitchcock spoke in regard to the City and its employees existing to provide a service to the public and her preliminary concerns about a 9/80 work schedule.

Council Member Mounce spoke in regard to the conditions at Fire Station No. 2, the approval of the permitted use for Lodi Nut Company, a proposed local hiring ordinance, and the benefits of a 9/80 work schedule.

G. Comments by the City Manager on Non-Agenda Items

None.

H. Public Hearings

H-1 Public Hearing to Consider the Certification of the Final Mitigated Negative Declaration for the Harney Lane Interim Improvements Project (CD)

NOTE: This item is a quasi-judicial hearing and requires disclosure of ex parte communications as set forth in Resolution No. 2006-31

Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Katzakian called for the public hearing to consider the certification of the Final Mitigated Negative Declaration for the Harney Lane Interim Improvements Project.

Interim City Manager Rad Bartlam provided a PowerPoint presentation regarding the proposed certification of the Final Mitigated Negative Declaration for Harney Lane interim improvements. Specific topics of discussion included an aerial view of the site, site plan, California Environmental Quality Act application, environmental review process, proposed mitigation measures to minimize impacts to less than significant, findings of Initial Study, and public agencies consulted on the item.

In response to Mayor Pro Tempore Hitchcock, Public Works Director Wally Sandelin stated Cherokee Lane will remain open for the interim project and will close per the design when the interchange is actually constructed.

In response to Council Member Mounce, Mr. Sandelin stated Cherokee Lane cannot remain open during the interchange construction if the City complies with the State design requirements.

In response to Mayor Pro Tempore Hitchcock, Mr. Hansen stated a Highway 99 widening project is not included in any current plan San Joaquin Council of Governments is looking at. Mr. Bartlam stated that, even if there were to be a Highway 99 widening, there is sufficient right of way on the shoulder to accommodate a widening.

In response to Mayor Pro Tempore Hitchcock, Mr. Bartlam and Mr. Sandelin stated the proposed improvements are sufficient to address growth concerns over the next 15 to 20 years.

Mayor Katzakian opened the public hearing to receive comments from the public.

Mrs. Adams spoke in regard to her concerns about noise and dust as a result of the project construction. Mr. Bartlam stated her property should not be affected by the proposed interim improvements and mitigation measures will be undertaken as well.

In response to Mayor Pro Tempore Hitchcock, Mr. Sandelin stated the construction will begin at the end of October and be completed in March. Mr. Sandelin stated the funding sources are developer and regional transportation impact fees.

In response to Mayor Katzakian, Mr. Sandelin confirmed that the interim improvements will take approximately five months.

In response to Mr. Amesh, Mr. Bartlam stated the Melby intersection improvements will occur as a part of the improvement agreement and the intersection will be widened at the same time.

After receiving no further public comment, Mayor Katzakian closed the public hearing.

In response to Mayor Pro Tempore Hitchcock, Mr. Bartlam stated the funding is split 50/50 from both sources.

Council Member Mounce made a motion, second by Council Member Hansen, to adopt Resolution No. 2010-149 certifying the Final Mitigated Negative Declaration for the Harney Lane Interim Improvements Project.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hansen, Council Member Mounce, Mayor Pro Tempore Hitchcock, and Mayor Katzakian

Noes: None

Absent: Council Member Johnson

I. Communications

I-1 Appointment to the Lodi Planning Commission (CLK)

Council Member Mounce made a motion, second by Council Member Hansen, to make the following appointment:

Lodi Planning Commission

Nick Jones, Term to expire June 30, 2014

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hansen, Council Member Mounce, Mayor Pro Tempore Hitchcock, and Mayor Katzakian

Noes: None

Absent: Council Member Johnson

I-2 Post for Vacancies on the Lodi Arts Commission and the Lodi Budget/Finance Committee (CLK)

Council Member Mounce made a motion, second by Council Member Hansen, to direct the City Clerk to post for the following vacancies:

Lodi Arts Commission

One Vacancy (Walth), Term to expire July 1, 2012

Lodi Budget/Finance Committee

Kelly Brown, Term to expire June 30, 2012

Steven Reeves, Term to expire June 30, 2013

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hansen, Council Member Mounce, Mayor Pro Tempore Hitchcock, and Mayor Katzakian

Noes: None

Absent: Council Member Johnson

J. Regular Calendar

J-1 Consider Request for Fee Payment Agreement for 1222 Pixley Parkway (G & B Development, LLC) (PW)

Public Works Director Wally Sandelin provided a brief presentation regarding the request for a fee payment agreement for 1222 Pixley Parkway as outlined in the Council Communication.

In response to Council Member Hansen, Mr. Sandelin stated staff is recommending that the fee deferral not be granted because criteria has not been met in that there does not appear to be a demonstrated benefit to the community or a true economic need.

In response to Council Member Mounce, Mr. Sandelin stated he has spoken to former employee Sharon Welch and she indicated she did not commit any course of action and did not have the authority to do so.

In response to Mayor Pro Tempore Hitchcock, Mr. Sandelin stated staff could not find that the fee amount was included in the lease amount itself.

Bill Estanislau, representing G&B Development LLC, spoke of his concerns regarding the proposed staff recommendation to not award the fee deferral, previous dealings and history of transactions with the City, the inability of the developer to pay the requested fees, and the negative impact of the same for the developer, proposed tenant, and the City.

In response to Council Member Hansen, Mr. Estanislau stated the process to bid for the project included the developer following similar projects in other communities and including costs and fees in the bid. Mr. Estanislau stated he obtained the amount of the fees and the fee deferral from the City prior to submitting his bid for the project so that he could incorporate those costs into the bid.

In response to Council Member Hansen, Mr. Bartlam stated he met with Mr. Estanislau in March or April of 2010 and provided him with an overview of the process and criteria to obtain a fee deferral from the City Council.

In response to Council Member Hansen, Mr. Estanislau stated he incorporated the fees into his bid amount but as they would be deferred over the course of ten years.

In response to Mayor Pro Tempore Hitchcock, Mr. Estanislau stated the \$262,000 figure was submitted to the banks after he received a memorandum and direction from the City in April 2009.

In response to Mayor Pro Tempore Hitchcock, Mr. Bartlam stated the developer was told upfront in the meeting with Mr. Bartlam of the fee amount, that is was required upfront, and that it would be an uphill battle to receive a fee deferral.

In response to Mayor Pro Tempore Hitchcock, Mr. Bartlam stated the State cannot open the facility until the Certificate of Occupancy is issued. Mr. Estanislau stated the State of California and DMV is the tenant and it is unlikely that they will entertain any security and payment discussions.

In response to Council Member Mounce, Mr. Sandelin stated there were no unpaid impact fees from previous developers that were passed on to the applicant.

In response to Council Member Mounce, Mr. Bartlam stated that, while he is not sure of the specific details, he knows there are a handful of active fee agreements.

In response to Council Member Mounce, Mr. Schwabauer stated the proposed fee agreement was created by staff as part of the City Council agenda packet in the event that Council desired to enter into such agreement.

In response to Council Member Hansen, Mr. Bartlam provided an overview of the criteria needed to consider a fee deferral including the proposed benefit to the community and the financial hardship element, which was not met based on the information provided to staff by the developer.

Council Member Hansen made a motion, second by Council Member Mounce, to table the matter and reagendaize for a future Council meeting to allow time for a closed session discussion and additional information.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hansen, Council Member Mounce, Mayor Pro Tempore Hitchcock, and Mayor Katzakian

Noes: None

Absent: Council Member Johnson

K. Ordinances - None

L. Adjournment

There being no further business to come before the City Council, the meeting was adjourned at 9:52 p.m.

ATTEST:

Randi Johl
City Clerk